IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	)	**BOX Appeal Brief-Patents**
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John R. STEFANIK	)	Group Art Unit: 2623
	)	
Application No.: 09/751,288	)	Examiner: Annan Q. Shang
	)	
Filed: December 29, 2000	)	
	)	
For: REMOTE CONTROL DEVICE WITH EVENT NOTIFIER	)	
	)	

Commissioner for Patents
Alexandria, VA 22313-1450

APPEAL BRIEF PURSUANT TO 37 C.F.R § 41.37

Sir:

Further to the Notice of Appeal filed on March 16, 2007 in connection with the above-identified application submitted herewith is the Appeal Brief.

(i) **REAL PARTY IN INTEREST**

The real party in interest is the assignee, BellSouth Intellectual Property Corporation.

(ii) **RELATED APPEALS AND INTERFERENCES**

To the best of the undersigned's knowledge, there are no related appeals or interferences.

(iii) **STATUS OF CLAIMS**

Claims 9-15 and 20-28 are currently pending, have all been rejected two or more times, with the exception of claim 28 which has been rejected once, and are all the subject of this appeal. Claims 1-8 and 16-19 have been cancelled.

(iv) **STATUS OF AMENDMENTS**

No Amendments have been submitted in this application subsequent to the Final Office Action dated December 18, 2006.

(v) **SUMMARY OF CLAIMED SUBJECT MATTER**

The exemplary embodiments describe remote control devices with event notifiers that are capable of interacting with a variety of consumer electronic devices. Such devices enable users to receive notification of events, such as telephone calls and the starting times of television programs, via their remote control(s).

Independent claim 23 describes a remote control device (see, e.g., Figure 3, reference numeral 60 of the application), including: a processor (see, e.g., Figure 3, reference numeral 64 of the application); a remote control receiver in communication with the processor, wherein the remote control receiver is for receiving data from an electronic program guide, wherein the data indicates the occurrence of a scheduled event (see, e.g., Figure 3, and page 9, lines 18-21 of the application); an input device in communication with the processor (see, e.g., Figure 3, reference numeral 66 of the application); a data storage area in communication with the processor (see, e.g., Figure 3, reference numeral 72 of the application); and an output device in communication with the processor (see, e.g. Figure 3, reference numeral 70 of the application), wherein after the processor receives the data from the remote control receiver, the processor retrieves instructions from the data storage area, interprets the data based upon the retrieved instructions and controls the output device to produce a customized alert associated with the scheduled event (see, e.g., page 10, lines 3-8 and lines 15-17 of the application).

Independent claim 26 describes a system, including: a remote control device (see, e.g., Figure 3, reference numeral 60 of the application), the remote control device including: a processor (see, e.g., Figure 3, reference numeral 64 of the application); a remote control receiver in communication with the processor (see, e.g., Figure 3, reference numeral 74 of the application); an input device in communication with the processor (see, e.g., Figure 3, reference numeral 66 of the application); a light source in communication with the processor (see, e.g. Figure 3, reference numeral 68 of the application); a storage area in communication with the processor (see, e.g., Figure 3,

reference numeral 72 of the application); a motion detector in communication with the processor, wherein, in response to motion detected by the motion detector, the processor retrieves instructions from the storage area and sends a signal to a light source to illuminate a portion of the input device (see, e.g., Figure 1; reference numeral 20, page 6, lines 7-12 and page 9, lines 3-6 of the application); an output device in communication with the processor, wherein the output device is for providing an alert to a user when a scheduled event occurs (see, e.g., Figure 3, reference numeral 70 of the application and page 10, lines 5-8 of the application); and an electronic device (see, e.g., Figure 3, reference numeral 100 of the application), the electronic device including: a receiver for receiving signals from the remote control device (see, e.g., Figure 3, reference numeral 112 of the application); an electronic program guide (see, e.g., Figure 3, reference numeral 102 of the application); and a transmitter in communication with the electronic program guide, the transmitter for transmitting data from the electronic program guide to the remote control device, wherein the data indicates an occurrence of the scheduled event (see, e.g., Figure 3, reference numeral 110 of the application).

Independent claim 28 describes a system, including: a remote control device (see, e.g., Figure 3, reference numeral 60 of the application), the remote control device including: a processor (see, e.g., Figure 3, reference numeral 64 of the application); a remote control receiver in communication with the processor (see, e.g., Figure 3, reference numeral 74 of the application); an input device in communication with the processor (see, e.g., Figure 3, reference numeral 66 of the application); a light source in communication with the processor (see, e.g. Figure 3, reference numeral 68 of the application); a storage area in communication with the processor (see, e.g., Figure 3, reference numeral 72 of the application); a motion detector in communication with the processor, wherein, in response to motion detected by the motion detector, the processor retrieves instructions from the storage area and sends a signal to a light source to illuminate a portion of the input device (see, e.g., Figure 1; reference numeral

20, page 6, lines 7-12 and page 9, lines 3-6 of the application); and an output device in communication with the processor, wherein the output device is for providing a customizable alert to a user when a scheduled event occurs (see, e.g., Figure 3, reference numeral 70 of the application and page 10, lines 5-11 of the application); and an electronic device (see, e.g., Figure 3, reference numeral 100 of the application), the electronic device including: a receiver for receiving signals from the remote control device (see, e.g., Figure 3, reference numeral 112 of the application); an electronic program guide (see, e.g., Figure 3, reference numeral 102 of the application); a transmitter in communication with the electronic program guide, the transmitter for transmitting data from the electronic program guide to the remote control device, wherein the data indicates an occurrence of the scheduled event (see, e.g., Figure 3, reference numeral 110 of the application); and wherein the processor detects activation of the input device and, responsive thereto, the processor turns off the customized alert (see, e.g., page 10, lines 21-23 of the application).

(vi) **GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

A number of grounds of rejection are raised by the Examiner and listed below. Appellant requests review of each of these grounds of rejection on appeal.

a. Claims 20-21 and 23-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Thompson et al. (U.S. Patent Number 6,484,011) and in view of Eggen et al. (U.S. Patent Number 6,388,715) and further in view of Kikinis et al. (U.S. Patent Application Number 2002/0059597).

b. Claims 9-11 and 26-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Thompson et al. (U.S. Patent Number 6,484,011) in view of Chang (U.S. Patent Application Number 2004/0168187) and further in view of Eggen et al. (U.S. Patent Number 6,388,715) and further in view of Kikinis et al. (U.S. Patent Application Number 2002/0059597).

c. Claims 12-15 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Thompson et al. (U.S. Patent Number 6,484,011) in view of Chang (U.S. Patent Application Number 2004/0168187) and further in view of Eggen et al. (U.S. Patent Number 6,388,715) and further in view of Kikinis et al. (U.S. Patent Application Number 2002/0059597) as applied to claim 26 above, and further in view of Croy et al. (U.S. Patent Number 6,509,908).

d. Claim 28 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Thompson et al. (U.S. Patent Number 6,484,011) in view of Chang (U.S. Patent Application Number 2004/0168187) and further in view of Eggen et al. (U.S. Patent Number 6,388,715) and further in view of Kikinis et al. (U.S. Patent Application Number 2002/0059597) and further in view of Greenlee (U.S. Patent Application 5,274,550).

e. Claim 25 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Thompson et al. (U.S. Patent Number 6,484,011) and in view of Eggen et al. (U.S. Patent Number 6,388,715) further in view of Kikinis et al. (U.S. Patent Application Number 2002/0059597) and further in view of Greenlee (U.S. Patent Application 5,274,550).

(vii) **ARGUMENT**

In the Final Official Action dated December 18, 2006 elements of up to five different references are selected in an attempt to establish various *prima facie* cases of obviousness. Even with the use of up to five references, some of these combinations described in the Final Official Action still do not possess elements which even remotely correspond to elements in Appellant's claimed combinations. It is respectfully submitted that it would not have been obvious to one of ordinary skill in the art to have made these multiple, piecemeal connections between elements in the cited references to reach Appellant's claimed combinations. The specific differences between the claimed combinations and the cited references will be described below with respect to the various grounds of rejection.

a. Claim 28 Stands Rejected Under 35 U.S.C. § 103(a) as Allegedly Being Unpatentable Over Thompson et al. in View of Chang and Further in View of Eggen et al. and Further in View of Kikinis et al. and Further in View of Greenlee.

Appellant's claim 28 recites:

"A system, comprising:
a remote control device, the remote control device including:
a processor;
a remote control receiver in communication with the processor;
an input device in communication with the processor;
a light source in communication with the processor;
a storage area in communication with the processor;
a motion detector in communication with the processor, wherein, in response to motion detected by said motion detector, said processor retrieves instructions from said storage area and sends a signal to a light source to illuminate a portion of said input device; and
an output device in communication with the processor, wherein the output device is for providing a customizable alert to a user when a scheduled event occurs; and
an electronic device, the electronic device including:
a receiver for receiving signals from the remote control device;
an electronic program guide;
a transmitter in communication with the electronic program guide, the transmitter for transmitting data from the electronic program guide to the remote control device, wherein the data indicates an occurrence of the scheduled event; and
wherein said processor detects activation of said input device and, responsive thereto, said processor turns off said customized alert."

In rejecting independent claim 28, the Final Official Action is taking bits and pieces from five different patents to reach a point where the Examiner contends a *prima facie* case of obviousness has been established. Recognizing that, per KSR Int'l v. Teleflex, Inc., No. 04-1350 (U.S. Apr. 30, 2007) the presence or absence of sufficient motivation is not determined via application of a rigid test, it is nonetheless respectfully submitted that one of ordinary skill in the art would not have been motivated to have arrived at Appellant's claimed combinations for the following reasons.

I. It Would Not Have Been Obvious to Modify the Wireless Presentation Device of Thompson et al. to Become a System Including a Remote Control Device that Indicates the Occurrence of a Scheduled Event Based on Eggen et al.

The Thompson et al. reference describes a wireless information presentation device. The wireless information presentation device of Thompson et al. receives selected information such as news, weather and advertising from a host device, which it then displays on a screen. The device of Thompson et al. is not a remote control device. Eggen et al. describes improvements to television receivers such as, presenting program characteristics visually as well as auditively. Unlike Thompson et al., the system of Eggen et al. does include a remote control device. However, neither Thompson et al. nor Eggen et al. describes or suggests a remote control device as described, among other features, in Appellant's claim 28 combination.

More specifically, the Final Official Action correctly notes that Thompson et al. lacks a number of elements of Appellant's claim 28 combination including a fundamental deficiency in failing to teach or suggest transmitting data indicating an occurrence of a scheduled event from the electronic program guide to the remote control device and using that data to output a customizable alert to a user when the scheduled event occurs. As stated in the Final Official Action dated December 18, 2006

(The quote from the Final Official Action is made with respect to claim 23 but appears to be applicable to claim 28):

"However, Thompson is silent as to the remote controller receiving data that indicates the occurrence of a scheduled event.

However, note the Eggen reference that discloses a television receiver. The claimed 'produce a customized alert associated with said scheduled event' is met by '[o]ne feature of this embodiment is that the auditive reminder or alert signal, which the receiver produces when a desired television program is about to start is associated with the program category of the program' (col. 4, lines 25-34) by comparing the start times with the data stored in the electronic program guide (col. 4, lines 35-52) wherein 'receiver further comprises user-operable means for selecting a desired television program to be received when it is broadcast; and means for reproducing the auditive signal which is characteristic of the program category of the selected television program when said television program is about to be broadcast' (col. 1, lines 56-63) wherein '[e]xamples of characteristic sounds are: a gong-stroke for news programs; a cheering audience for sports programs; a part of the tune of a James Bond film for movies' (Eggen 1:49-51).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Thompson with the teachings of Eggen for the purpose of reminding users of upcoming programs of interest so that the user does not miss desired programming."

It is respectfully submitted that, absent reference to the present specification, there would have been no motivation to modify the wireless information presenter of Thompson et al. based on the teachings of Eggen et al. to transmit data indicating an occurrence of a scheduled event to a remote control device and to use that data to generate a customizable alert initially because Thompson et al. is not concerned with "remote control devices", but instead describes only an information presentation device.

Turning next to the purported motivation provided by the Examiner on page 3 of the Final Official Action it is noted that:

"However, in the same field of endeavor, i.e., a remote control device(s), these deficiencies are disclosed in the teachings of Eggen and Kikinis, where Eggen teaches a remote controller that indicates the occurrence of a scheduled event and Kikinis that further teaches a remote controller which provides an alert signal to a user when a scheduled event occurs. Hence combining the teachings of Eggen and Kikinis to the system of Thompson, is proper, would have been within the knowledge of one skilled in the art, meets all the claimed limitations, maintained as discussed below and appropriate motivation was given."

Of course, simply because two references are within a common field of endeavor is not enough to suggest motivating one of ordinary skill in the art to have combined them in a

particular way. The more specific motivational statement relied upon in the Final Official Action is found in the sentence bridging pages 6 and 7 wherein it states that:

"Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention to modify the Thompson with the teachings of Eggen for the purpose of reminding users of upcoming programs of interest so that the user does not miss desired programming."

However, Thompson et al. does not suggest any "events of interest" that would have motivated this change, e.g., analogous to the time when a desired television program. Or put another way, there is nothing in Thompson et al. or Eggen et al. which suggests that the wireless information presentation device of Thompson would benefit from the capability to allow such an information presentation device to alert the user regarding the occurrence of an event of interest.

II. It Would Not Have Been Obvious to Modify the Remote Control Device of Thompson et al. as modified by Eggen et al with the Teachings of Kikinis et al. for the Purpose of Providing a User Notification Regarding Events of Interest in Situations Where a User May Not Be in Close Proximity to the Television System.

The information presentation device of Thompson et al. lacks both transmitting data to the remote control device that indicates the occurrence of a scheduled event based on Eggen et al. as described above, and then providing a customizable alert to a user in response thereto. This deficiency is also recognized in the Official Action and is the reason for the inclusion of Kikinis et al. in the rejection. The Kikinis et al. reference describes a method and apparatus for notifying a user of an interactive event, such as an interactive application that a television user may use while watching television, using a remote control device. The Official Action attempts to graft this notification onto the combination of Thompson et al. and Eggen et al.

More specifically, as stated in the Official Action:

"Thompson as modified by Eggen, do not teach where the remote control provides the alert to a user when a scheduled event occurs.

However, note the Kikinis et al. reference that discloses a method and apparatus for notifying users of interactive functions (scheduled events). The claimed output device produces a alert associated with said scheduled event is met by '[d]isplay 410 may be used to alert a user of an interactive function (scheduled event)…Additionally, or in lieu of display 410, one or more of buttons 415 may flash or change colors to alert a user of an interactive function…It is also possible to incorporate some sort of audio tone or sound clip through a speaker (not shown) to act as a supplement or as a replacement for the methods described above' (Kikinis [0045-0046]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Thompson as modified by Eggen with the teaching of Kikinis for the purpose of providing a user notification regarding events of interest in situations where a user may not be in close proximity to the television system."

The undersigned respectfully disagrees with the preceding section of the Final Official Action for multiple reasons. First of all the rationale for making the combination does not logically follow given that Thompson et al. describes an information presentation device instead of a remote control device. More specifically, unlike a remote control device (which is used to control a second device, e.g., a TV) the Thompson et al. wireless information presentation device has no second device with which it needs to be "in close proximity" to for the purpose of receiving feedback. For example, as described on col. 7, lines 17-20, Thompson et al. states:

"The wireless RF transmitting circuitry 36 and recieiving circuitry can be constructed and arranged to receive RF data from a long range transmitting device such as a paging network"

Thus, it is respectfully submitted that the rationale supplied in the Official Action would not have been sufficient for one of ordinary skill to have arrived at Appellant's claim 28 combination.

Secondly, it is also respectfully submitted that the interactive function of Kikinis et al. is not a scheduled event. Paragraph [0033] of Kikinis et al. gives examples of interactive functions such as online shopping, contests, games and chat. These examples of interactive functions can be generalized as functions that a person currently (in a time frame of reference) interacts with for something to occur. By way of contrast, in the present application, scheduled events are described on page 9 lines 7-9 as:

"The consumer electronic device 100 has the capability to be programmed to keep track of scheduled events, such as television shows or sporting event starting times, through an electronic programming guide 102."

This description of scheduled events from the present application implies that scheduled events are initially in a future time frame of reference such that they can be scheduled as a later occurrence. Accordingly, it is respectfully submitted that the interactive function of Kikinis et al. is not a scheduled event.

III. It Would Not Have Been Obvious to Modify Thompson et al. to Include Using a Light Source to Illuminate a Portion of the Input Device Based on Chang.

In addition to the deficiencies described above in sections I and II, the information presentation device of Thompson et al. also lacks using a light source to illuminate a portion of the input device. In an attempt to remedy this deficiency, the Chang reference is grafted onto the information presentation device of Thompson as modified by both Eggen et al. and Kikinis et al. The Chang reference describes a talking remote control device with a display that also has a light source that is activated by pressing a "light" button. From the Final Official Action:

"Thompson is silent as to the implementation of back-lighting.

However, note the Chang reference discloses a talking remote control with display. The claimed 'a light source in communication with the processor' is met by '[t]he microcontroller 46 also controls a light 52 for illuminating the display screen 12 and an IR transmitter 54 for controlling other devices' (Chang [0020]). The claimed 'wherein said processor can retrieve instructions from said storage area and then sends a signal to a light source to illuminate a portion of said input device' is met by the Thompson and Chang combination teaching a remote controller with a light source controlled by the microprocessor where the microprocessor retrieves instructions from memory to control functionality (Thompson 5:29-63) including back-light functionality.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Thompson system back-lighting option with the Chang light source in communication with the processor for the purpose of providing a user the ability to use remote controller functions in low light conditions and a method to control activation of the light source."

The undersigned respectfully disagrees with the above because Chang completely lacks, among other features, "a motion detector in communication with the processor, wherein, in response to motion detected by said motion detector, said processor retrieves instructions from said storage area and sends a signal to a light source to illuminate a portion of said input device" which is only found, among other features, in Appellant's claim 28 combination. Although Chang does describe a light source per se, it is not (1) controlled by a processor or (2) turned on in response to detected motion. See for example Chang at paragraph [0023] wherein activating the light source is described as "Pressing LIGHT button 30 activates the light, preferably illuminating the display screen 12 for about 15 seconds". Nor does the Official Action attempt to explain how Chang allegedly meets this claimed feature. No hypothetical combination of Thompson et al., Eggen et al., Kikinis et al. and Chang teaches or suggests that the result of this conglomeration would have included a signal from a processor to a light source to illuminate a portion of the device based on detected motion.

IV. The Greenlee Reference is not Analogous Art to Applicant's Application

Regarding Claim 28, the Final Official Action states:

"As to claim 28, the claimed 'A system, comprising…' is composed of the same structural elements that were discussed with respect to the rejection of claim 26 above, but Thompson as modified by Chang and Eggen et al (6,388,715) and Kikinis, fail to explicitly teach wherein said processor detects activation of said input device and, responsive thereto, said processor turns off said customized alert.

However, note the Greenlee reference that discloses a handheld device (col. 2, lines 7-8) for providing alerts to a user (col. 2, lines 39-49). The claimed 'wherein said processor detects activation of said input device and, responsive thereto, said processor turns off said customized alert' is met by a user may press a key to turn off the alarm before the time the alarm would normally turn off (col. 3, lines 35-38)."

It is respectfully submitted that the Greenlee reference is not analogous art to Applicant's application. Analogous art, as described in the MPEP 2141.01(a), can be defined as follows:

"In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned."

More specifically, the Greenlee reference describes a hand held blood alcohol level determining device. The Greenlee reference is neither (1) in the field of applicant's endeavor nor (2) reasonably pertinent to the particular problem with which the inventor is concerned as shown below.

The blood alcohol level for a person is calculated by the device of Greenlee based on (1) stored characteristics of that person, (2) input information relating to the alcoholic beverages consumed and (3) elapsed time. See col. 1, lines 27-33 of Greenlee. From the Background section of Greenlee, it seems reasonable to characterize the "field of endeavor" of Greenlee to be blood alcohol level determining devices.

By way of contrast, the field of endeavor associated with the present invention is not blood alcohol level determining devices. One could potentially characterize the field of endeavor of the present application in many different ways, e.g., "remote control devices", however it is respectfully submitted that it would be unreasonable to characterize it as being within the field of endeavor of "blood alcohol level determining devices." The Examiner appears to agree with this characterization of the field of endeavor of the present application. See, e.g., the Final Official Action at page 3, lines 3-4.

Turning to the second prong of the test for analogous art, it is also respectfully submitted that Greenlee is not "reasonably pertinent to the problem being solved" by Appellant. One could reasonably characterize the problem to be solved by the present application in a number of different ways. However, the paragraph bridging pages 2 and 3 of the present application is instructive in this regard and states:

"Advanced technophile users demand the functionality of universal remote control devices to become increasingly more sophisticated. For example, an experienced technical user may wish to do as

much as the user can with a single remote control device. In addition, a home electronics maven might wish to be visually or audibly alerted to incoming telephone calls, or to a favorite television show starting, from the mobile remote control independent of the typically immobile set-top box or other CE devices, which may be off when such an event occurs, thereby causing the user to miss that event. In addition, some advanced consumers may appreciate having the means to save and retrieve individualized settings of each CE device and/or their user profile from their remote control instead of having to use the set-top box to access these individualized settings and user profiles."

From this paragraph, one could articulate a problem being solved in the present application as: "[a]ttempting to provide remote control devices with more sophisticated functionality". It is respectfully submitted that the blood alcohol level determining device of Greenlee is not reasonably pertinent to this (or any other reasonable characterization of) problem to be solved.

Accordingly, since Greenlee is not analogous art, it is respectfully submitted that it cannot form the basis for a rejection of claim 28 (or any other claim in this appeal).

V. Even If Greenlee is Considered to be Analogous Art No Combination of Greenlee with the Other Four References would have Resulted in Appellant's Claim 28 Combination.

Assuming (strictly arguendo) that the Greenlee reference is analogous art, modifying the combination of Thompson et al., Eggen et al., Kikinis et al. and Chang with the teachings of Greenlee would not have resulted in Appellant's claim 28 combination for at least the following reasons.

The Final Official Action states:

"The claimed 'wherein said processor detects activation of said input device and, responsive thereto, said processor turns off said customized alert' is met by a user may press a key to turn off the alarm before the time the alarm would normally turn off".

It is respectfully submitted that the above cited section of Greenlee does not match Appellant's claim 28 combination because having a user press a key to turn off the alarm as described in Greenlee is significantly different from "wherein said processor detects activation of said input device and, responsive thereto, said processor turns off customized alert". More specifically, having a "a user press a key", as described in

Greenlee, lacks reference to a processor that performs the two functions of "detects activation of said input device" and "turns off said customized alert".

For all of the foregoing reasons set forth in Sections I-IV, it is respectfully submitted that Appellants claim 28 combination is patentable over the five cited references taken singly or in combination.

b. Claims 9-11 and 26-27 Stand Rejected Under 35 U.S.C. § 103(a) as Allegedly Being Unpatentable Over Thompson et al. in View of Chang and Further in View of Eggen et al. and Further in View of Kikinis et al.

In rejecting independent claim 26, the Final Official Action is taking bits and pieces from four different patents to reach a point where the Examiner contends a prima facie case of obviousness has been established. Similar arguments apply to claim 26 that apply to claim 28 above (specifically those in Sections I, II and III, which arguments are incorporated here by reference). For these reasons it is respectfully submitted that one of ordinary skill in the art would not have been motivated to have arrived at Appellant's claim 26 combination. Similar comments apply to dependent claims 9-11 and 27.

c. Claims 20-21 and 23-24 Stand Rejected Under 35 U.S.C. § 103(a) as Allegedly Being Unpatentable Over Thompson et al. and in View of Eggen et al. and Further in View of Kikinis et al.

In rejecting independent claim 23, the Final Official Action is taking bits and pieces from three different patents to reach a point where the Examiner contends a prima facie case of obviousness has been established. Similar arguments apply to claim 23 that apply to claim 28 above (specifically those in Sections I and II, which are incorporated here by reference). For these reasons it is respectfully submitted that one of ordinary skill in the art would not have been motivated to have arrived at Appellant's claim 23 combination. Similar comments apply to dependent claims 20-22 and 24.

d. Claim 25 Stands Rejected Under 35 U.S.C. § 103(a) as Allegedly Being Unpatentable Over Thompson et al. and in View of Eggen et al. Further in View of Kikinis et al. and Further in View of Greenlee.

Dependent claim 25 is allowable for at least the reasons described above with respect to independent claim 23 from which it depends. Additionally, it is respectfully submitted that the Greenlee reference is not analogous art to Appellant's application as described above with respect to claim 28. Furthermore, assuming (strictly arguendo) that Greenlee is analogous art, the combination of Thompson et al., Eggen et al. and Kikinis et al. as modified by Greenlee does result in Appellant's claim 25 combination for reasons described above with respect to claim 28.

e. Claims 12-15 and 22 Stand Rejected Under 35 U.S.C. § 103(a) as Allegedly Being Unpatentable Over Thompson et al. in View of Chang and Further in View of Eggen et al. and Further in View of Kikinis et al. as Applied to Claim 26 Above, and Further in View of Croy et al.

Claims 12-15 and 22 are patentably distinguishable from the art of record for at least the reasons described above with respect to independent claims 26 and 23 from which they ultimately depend. Additionally these claims are allowable because it would not have been obvious to one of ordinary skill in the art to modify the various pieces and parts of the four references used in the Final Official Action with the additional reference to Croy to reach Appellant's claimed combinations.

Conclusions

Accordingly it is respectfully submitted that the rejection of claims 20-21 and 23-24 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Thompson et al. and in view of Eggen et al. and further in view of Kikinis et al. does not establish a *prima facie* case of obviousness and should be reversed.

Accordingly it is respectfully submitted that the rejection of claims 9-11 and 26-27 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Thompson et al. in view of Chang and further in view of Eggen et al. and further in view of Kikinis et al. does not establish a *prima facie* case of obviousness and should be reversed.

Accordingly it is respectfully submitted that the rejection of claims 12-15 and 22 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Thompson et al. in view of Chang and further in view of Eggen et al. and further in view of Kikinis et al. as applied to claim 26 above, and further in view of Croy et al. does not establish a *prima facie* case of obviousness and should be reversed.

Accordingly it is respectfully submitted that the rejection of claim 28 under 35 U.S.C. § 103(a) as being unpatentable over Thompson et al. in view of Chang and further in view of Eggen et al. and further in view of Kikinis et al. and further in view of Greenlee does not establish a *prima facie* case of obviousness and should be reversed.

Accordingly it is respectfully submitted that the rejection of claim 25 under 35 U.S.C. § 103(a) as being unpatentable over Thompson et al. and in view of Eggen et al. further in view of Kikinis et al. and further in view of Greenlee does not establish a *prima facie* case of obviousness and should be reversed.

For at least the foregoing reasons, it is respectfully submitted that the claims are patentable over the documents cited. Accordingly, it is respectfully requested that the rejection in the Official Action of December 18, 2006 be REVERSED.

Respectfully submitted,
POTOMAC PATENT GROUP PLLC

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Dated: May 14, 2007

(viii) **CLAIMS APPENDIX**

1-8. (Cancelled).

9. The system of claim 26, wherein the data include television program starting times.

10. The system of claim 26, further comprising a telephonic device in communication with the transmitter.

11. The system of claim 26, wherein the output device includes at least one of a speaker and a light source.

12. The system of claim 26, wherein the remote control device further comprises a smart card reader/writer in communication the processor.

13. The system of claim 12, further comprising a smart card.

14. The system of claim 13, wherein the smart card is configured to include information concerning at least one of a user profile, a user history, a favorite show, a favorite channel, a favorite theme, a channel order, a parental control, a pay-per view purchase, and a pay-per-view spending limit.

15. The system of claim 13, wherein the smart card is configured to include information concerning at least one of a user Internet profile, an e-mail account, an Internet browser bookmark, an account name, an address list, a security feature, and a display format for Internet browsing on a television monitor.

16-19. (Cancelled)

20. The remote control device of claim 23, wherein the customized alert includes a plurality of noises, wherein the plurality of noises vary in pitch.

21. The remote control device of claim 23, wherein the data include television program starting times.

22. The remote control device of claim 23, wherein the remote control device further comprises a smart card reader/writer in communication the processor.

23. A remote control device, comprising:

a processor;

a remote control receiver in communication with the processor, wherein the remote control receiver is for receiving data from an electronic program guide, wherein the data indicates the occurrence of a scheduled event;

an input device in communication with the processor;

a data storage area in communication with the processor; and

an output device in communication with the processor,

wherein after the processor receives said data from the remote control receiver, the processor retrieves instructions from the data storage area, interprets said data based upon said retrieved instructions and controls said output device to produce a customized alert associated with said scheduled event.

24. The remote control device of claim 23, wherein said instructions enable said processor, in conjunction with said output device, to generate one of a plurality of different alerts.

25. The remote control device of claim 23, wherein said processor detects activation of said input device and, responsive thereto, said processor turns off said customized alert.

26. A system, comprising:

a remote control device, the remote control device including:

a processor;

a remote control receiver in communication with the processor;

an input device in communication with the processor;

a light source in communication with the processor;

a storage area in communication with the processor;

a motion detector in communication with the processor, wherein, in response to motion detected by said motion detector, said processor retrieves instructions from said storage area and sends a signal to a light source to illuminate a portion of said input device; and

an output device in communication with the processor, wherein the output device is for providing an alert to a user when a scheduled event occurs; and

an electronic device, the electronic device including:

a receiver for receiving signals from the remote control device;

an electronic program guide; and

a transmitter in communication with the electronic program guide, the transmitter for transmitting data from the electronic program guide to the remote control device, wherein the data indicates an occurrence of the scheduled event.

27. The system of claim 26, wherein said storage area contains instructions for handling said data indicative of said scheduled event and further wherein said processor operates, upon receipt of said data from said remote control receiver, to:

(a) retrieve said instructions from said storage area;

(b) interpret said data using said instructions; and

(c) use said interpreted data to generate, as said alert, one of a plurality of different alerts associated with said scheduled event.

28. A system, comprising:

a remote control device, the remote control device including:

a processor;

a remote control receiver in communication with the processor;

an input device in communication with the processor;

a light source in communication with the processor;

a storage area in communication with the processor;

a motion detector in communication with the processor, wherein, in response to motion detected by said motion detector, said processor retrieves instructions from said storage area and sends a signal to a light source to illuminate a portion of said input device; and

an output device in communication with the processor, wherein the output device is for providing a customizable alert to a user when a scheduled event occurs; and

an electronic device, the electronic device including:

a receiver for receiving signals from the remote control device;

an electronic program guide;

a transmitter in communication with the electronic program guide, the transmitter for transmitting data from the electronic program guide to the remote control device, wherein the data indicates an occurrence of the scheduled event; and

wherein said processor detects activation of said input device and, responsive thereto, said processor turns off said customized alert.

(ix) **EVIDENCE APPENDIX**

None.

(x) **RELATED PROCEEDINGS APPENDIX**

None.